



**BUILDING AND STANDARDS COMMISSION  
MINUTES**

**REGULAR MEETING  
Wednesday, April 24, 2013**

The Building and Standards Commission convened in a regular meeting on Wednesday, April 24, 2013 at City Hall, in the Boards and Commission Room, 301 West 2<sup>nd</sup> Street, Austin, Texas.

Madam Chair, Ethelynn Beebe called the Commission Meeting to order at 6:32 p.m.

**Commission Members in Attendance:**

Ethelynn Beebe, Chair; David Brown, Vice-Chair; Tim Hill, Stacy Kaplowitz, Steven Alloway and Daniel Gonzalez

**Staff in Attendance:**

Chris Moore, BSC Coordinator; Viola Ruiz, Scribe; Carl Smart, Director; Keith Leach, Assistant Director; Dan Cardenas, Assistant Director; Steve Ramirez, Division Manager; Ron Potts, Division Manager; Todd Wilcox, Assistant Division Manager; Robert Alvarado, Assistant Division Manager; Dennis Vaughn, Code Compliance Inspector; Alana, Reed, Community Outreach; Lauren Taggart, Code Compliance Inspector; and Kathleen Buchanan, Assistant City Attorney.

**1. CITIZEN COMMUNICATION: GENERAL**

- a. John Schwarzschild – 1701 Toomey Road – Case de Luz – He inquired to have this case brought back before the Commission for an executable plan.

**2. PUBLIC HEARINGS: BRIEFING, DISCUSSION, & POSSIBLE ACTION**

- a. Wood Ridge Apartments, 1900 Burton Drive, Buildings 1-15

- i. Chip (George) Somerville, attorney representing the potential buyer, appeared and testified on behalf of the potential buyer for this property. Steve Oliver, representing the engineering firm that designed the construction of the failed balconies.

- ii. City Staff presented an update(s).

<u>CL-BSC Case</u>	<u>Address</u>	<u>Owner</u>
2012-052362	1900 Burton Drive, Building 1	W Ridge Apts., LLC.
2012-052496	1900 Burton Drive, Building 2	W Ridge Apts., LLC.
2012-052500	1900 Burton Drive, Building 3	W Ridge Apts., LLC.
2012-052503	1900 Burton Drive, Building 4	W Ridge Apts., LLC.
2012-052506	1900 Burton Drive, Building 5	W Ridge Apts., LLC.
2012-052509	1900 Burton Drive, Building 6	W Ridge Apts., LLC.
2012-052510	1900 Burton Drive, Building 7	W Ridge Apts., LLC.
2012-052511	1900 Burton Drive, Building 8	W Ridge Apts., LLC.
2012-052513	1900 Burton Drive, Building 9	W Ridge Apts., LLC.
2012-052514	1900 Burton Drive, Building 10	W Ridge Apts., LLC.

2012-052515	1900 Burton Drive, Building 11	W Ridge Apts., LLC
2012-052517	1900 Burton Drive, Building 12	W Ridge Apts., LLC.
2012-052518	1900 Burton Drive, Building 13	W Ridge Apts., LLC.
2012-052519	1900 Burton Drive, Building 14	W Ridge Apts., LLC.
2012-052521	1900 Burton Drive, Building 15	W Ridge Apts., LLC.

- iii. Director Smart presented proposed agreed modified orders to the Commission. The Commission questioned the property representatives and City staff. The motion to approve proposed the modified agreed orders for all fifteen buildings passed on Commission Member Hill's motion, Commission Member Alloway's second, on 6-0-0 vote.

Agreed Modified Orders for all (15) buildings:

### **C. MODIFIED ORDER**

- I. All assessed civil penalties accrued to date under the Original Repair Order (as recorded in the Official Public Records of Travis County) shall be subject to the terms and conditions set out in Section C.IV. of this Modified Order.
- II. If the Property is sold to the Purchaser on or before the Sale date, the Original Repair Order for this property is hereby modified as set out below in this section and as set out below in Section C.IV:
  - a. Required Repairs shall be completed within 180 days after the Sale date (referred to in this Modified Order as the "Repair Period").
  - b. All permits necessary to complete the Required Repairs shall be secured and maintained active by the owner or owner's representative until the permits are finalized and compliance with the Modified Order to which the permit relates is achieved.
  - c. The Property shall be repaired such that the violations identified in the Modified Order are corrected. All repairs, modifications, and abatements of the Property shall meet or exceed the requirements of the International Property Maintenance Code and all applicable codes.
  - d. The owner or owner's representative shall request inspections to verify compliance of the Property with the terms of this Modified Order.
  - e. The owner or owner's representative shall comply with the written notice and reporting requirements related to this Modified Order as outlined in the submitted compliance plan, including that the owner shall provide to the Building and Standards Commission Coordinator and the tenants of 1900 Burton Drive, Austin, Texas, 78741, a written progress report on the 15<sup>th</sup> day of each month that includes the following information in English and in Spanish translation:
    - List of repairs completed
    - List of repairs outstanding
    - Estimated time until completion
    - Extenuating factors or conditions, if any
    - Status of building occupancy

Submission of the written progress report by the owner or owner's representative to the Building and Standards Commission Coordinator and the tenants of 1900 Burton Drive, Austin, Texas, 78741, shall continue until such time as all Required Repairs are completed with final inspections passed. Submission of the report by the owner or owner's representative to tenants may be provided by

posting a copy of the report outside the door of any onsite property manager or Property representative's office.

The Original Repair Order reporting requirements including that the owner provide in person reports each month before the Commission at its hearing are satisfied for the purpose of this Modified Order by the owner's compliance with the written notice and reporting provisions described in the compliance plan and in this subsection.

- f. The Code Official is authorized to toll the Repair Period provided for under this Modified Order by a maximum of 90 days if the Code Official determines one or more of the following conditions or circumstances has clearly prevented the Purchaser from completing the Required Repairs or requirements for compliance with this Modified Order despite Purchaser's diligent efforts to comply:
- Catastrophic incident or event that severely impairs or prevents accessibility or availability of necessary labor, materials, equipment, or site access sufficient to reasonably allow continued progress or completion of repair work at the site despite Purchaser's pursuit of alternatives and exercise of substantial efforts;
  - Local, state, or federal investigation, proceeding, or action that temporarily prohibits or prevents Purchaser or its repair contractors from accessing the site;
  - Unanticipated conditions encountered during performance of repair work that substantially increases or materially alters scope of work required to comply with this Modified Order;
  - Inability to lawfully vacate a unit or building of occupants or personal property, where vacation or clearing of the unit or building is required prior to commencement, completion, or inspection of construction, repair, or abatement work necessary to correct violations indicated in Section A. VII of this modified order, based on contamination, exposure, or other hazards to tenants or to the persons or property associated with necessary work.

If a compelling circumstance of this type is determined present by the Code Official, but the tolling period associated with the circumstance is anticipated to extend or does extend for a period in excess of 90 days, the Code Official is not authorized to provide extensions, but only to present the owner's extension request to the Commission for the Commission's consideration of possible further modification of this Modified Order.

**III.** If the Property is sold to the Purchaser on or before May 30, 2013, the existing civil penalties for the Property are hereby modified as set out below:

- a. The accrued civil penalties due under the Original Repair Order are \$32,857.14 as of April 9, 2013.
- b. Not later than five days after the Sale date, \$14,666.67 of the accrued civil penalties due under the Original Repair Order shall be satisfied through full payment made by or on behalf of the current owner to the City of Austin Code Compliance Department in a form directed by the Code Official, after which payment, \$18,190.47 of the civil penalties accrued as of April 9, 2013 under the Original Repair Order shall remain due ("Remaining Accrued Civil Penalties").

- c. All Remaining Accrued Civil Penalties will be placed in abeyance beginning April 9, 2013, and additional civil penalty accruals under the Original Repair Order will be temporarily suspended during the Repair Period until resumed as set forth below in Section C. IV.d. of this Modified Order unless Purchaser completes the Required Repairs and passes final inspections prior to the end of the Repair Period, in which event the Remaining Accrued Civil Penalties shall be deemed to be fully satisfied and no additional civil penalties shall accrue.
- d. If the Purchaser fails to correct the violations set forth in Section A.VII of this Modified Order and pass final inspections by the end of the Repair Period plus 45 days, a civil penalty assessed at \$1,000 per week shall resume beginning 45 days after the Repair Period ends and shall continue until all work necessary to correct the violations is completed with final inspections passed unless all Required Repairs are completed and all final inspections are passed prior to the expiration of the 45 day period, in which event the \$1,000.00 per week civil penalty assessment shall not resume. Any civil penalties resumed under this subsection following the end of the Repair Period plus 45 days shall be added to those amounts previously accrued as noted above in Section C.IV.a of this Modified Order.
- e. If the Purchaser completes the repairs and passes final inspections prior to the end of the Repair Period, the only civil penalty due under the Original Repair Order or this Modified Order will be the \$14,666.67 amount paid as provided in Section C. IV.b. and the Remaining Accrued Civil Penalties shall be deemed to be fully satisfied and no additional civil penalties shall accrue.
- f. The Purchaser's failure to correct the violations set forth in Section A. VII of this Modified Order and pass final inspections by the end of the Repair Period will subject the Purchaser to \$18,190.47 in civil penalties pursuant to the Original Repair Order (being the Remaining Accrued Civil Penalties referenced in Section C. IV.b.), in addition to liability for payments of any civil penalties that may resume following the Repair Period plus 45 days, as set out in Section C. IV.d. of this Modified Order.

**IV. It is ordered that if the Property is not sold to Flats on Burton, LLC, by May 30, 2013, this Modified Order shall have no force or effect and the Original Repair Order remains the controlling Order for this Property.**

Notwithstanding any provision herein to the contrary, if the Required Repairs are made and all final inspections are passed on or prior to the date that the herein referenced \$14,666.67 payment is made, then all Remaining Accrued Civil Penalties shall be deemed to be fully satisfied as of the date of such payment and no additional civil penalties shall accrue.

**b. Appeal Case with a possible order to vacate, repair, demolish, or secure: and may issue penalties:**

1. 2013-036442                      2105 East 14<sup>th</sup> Street, Unit 2                      Joel B. Bennett

2105 East 14<sup>th</sup> Street, Unit 2 is a Residential Single Family Structure with an accessory structure. Travis Central Appraisal District shows that Joel B. Bennett is the title owner. The City of Austin Code Compliance Department found that this property is in violation of the International Property Maintenance

Code adopted by reference in Sections 25-12-211 through 25-12-213 of the Austin City Code. The staff recommended that the Commission adopt the recommended order to have the Residential Single Family Structure located on the property to have any necessary permits be secured and repaired with final inspections passed within 30 days of the date this Order is mailed to the owner. That all repairs or modifications shall meet or exceed the requirements of all applicable codes. That the owner or owner's representative shall request inspection(s) to verify compliance; and that after the 30 days, a penalty of \$250.00 per week shall be assessed until work is completed with final inspections passed. Also, staff recommended that the accessory structure located on the property be demolished and the lot left in a cleaned and raked condition within 30 days of the date this Order is mailed to the owner. That all portions of the accessory structure be removed. That the owner or owner's representative request inspection(s) to verify compliance. If compliance is not achieved within 30 days, the Code Official may proceed with the demolition. After the 30 days, all portions of the accessory structure, including items in the structure and on the property, will be considered debris and disposed of as such. A lien for all expenses incurred by the City of Austin will be filed with the Travis County Deed Records.

The motion to accept staff's recommended Order with the amendment to change the timeframe of the repair portion of the Order from 30 days to 90 days and to add that a permit application be submitted to the City's Planning and Development Department within 14 days of the date the Order is mailed to the owner, passed on Commission Member Gonzalez' motion, Commission Member Hill's second, on a 6-0-0 vote.

**c. The Commission will hear the following cases and may issue an order to vacate, repair, demolish, or secure; and may issue penalties.**

1. 2013-036428

1129 Salina Street

Dennis H. Bennett

1129 Salina Street is a Residential Single Family Structure. Travis Central Appraisal District shows that Dennis H. Bennett is the title owner. The City of Austin Code Compliance Department found that this property is in violation of the International Property Maintenance Code adopted by reference in Sections 25-12-211 through 25-12-213 of the Austin City Code. The Staff recommended the Commission adopt the recommended order that a demolition permit be secured and the Residential Single Family Structure located on the property to be demolished and the lot left in a cleaned and raked condition within 30 days of the date this Order is mailed to the owner. That all portions of the Residential Single Family Structure be removed and that the owner or owner's representative request inspection(s) to verify compliance. If compliance is not achieved within 30 days, the Code Official may proceed with the demolition. After the 30 days, all portions of the Residential Single Family Structure, including items in the structure and on the property, will be considered debris and disposed of as such. A lien for all expenses incurred by the City of Austin will be filed with the Travis County Deed Records.

A motion to approve staff's recommended Order passed on Vice-Chair Brown's motion, Commission Member Kaplowitz's second on a 6-0-0 vote.

2. 2013-036495

10204 Rocking Horse Road

Ryan J. Dorer & Joyce E. Davis

10204 Rocking Horse Road is a Residential Single Family Structure. Travis Central Appraisal District shows that Ryan J. Dorer & Joyce E. Davis are the title owners. The City of Austin Code Compliance Department found that this property is in violation of the International Property Maintenance Code adopted by reference in Sections 25-12-211 through 25-12-213 of the Austin City Code. Staff recommended the Commission adopt the recommended order that a demolition permit secured and the Residential Single Family Structure located on the property to be demolished and the lot left in a cleaned and raked condition within 30 days of the date this Order is mailed to the owner. That all portions of the Residential Single Family Structure be removed and that the owner or owner's representative request inspection(s) to verify compliance. If compliance is not achieved within 30 days, the Code Official may proceed with the demolition. After the 30

days, all portions of the Residential Single Family Structure, including items in the structure and on the property, will be considered debris and disposed of as such. A lien for all expenses incurred by the City of Austin will be filed with the Travis County Deed Records.

Staff made an amendment to have *Building Official* replaced with *Code Official*.

A motion to approve staff's recommended Order passed on Commission Member Hill's motion, Vice-Chair Brown's second, on a 6-0-0 vote.

**6. FUTURE AGENDA ITEMS**

a. Commission Member Daniel Gonzalez made a motion to place 1701 Toomey Road, Casa de Luz on the May 2013 agenda, Commission Member Stacy Kaplowitz second.

**Madam Chair Ethelynn Beebe adjourned the commission hearing at 8:19 p.m. without objection.**